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FISCAL IMPACT STATEMENT

LS 7829 **NOTE PREPARED:** May 6, 2005
BILL NUMBER: SB 414 **BILL AMENDED:** Apr 29, 2005

SUBJECT: EDGE Credit Applications.

FIRST AUTHOR: Sen. Ford **BILL STATUS:** Enrolled
FIRST SPONSOR: Rep. T Harris

FUNDS AFFECTED: X GENERAL **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: *EDGE Credits Determinations/Approvals:* The bill provides that the Indiana Economic Development Corporation (IEDC) shall, in evaluating an EDGE credit application to retain existing jobs in Indiana submitted after December 31, 2005, determine whether the average compensation paid by the applicant during the applicant's previous fiscal year exceeds: (1) the average compensation paid to employees working in the same industry sector to which the applicant's business belongs within the county in which the applicant's business is located, if there is more than one business in that industry sector in the county; (2) the average compensation paid to employees working in the same industry sector to which the applicant's business belongs in Indiana, if the applicant's business is the only business in that industry sector in the county in which the applicant's business is located but there is more than one business in that industry sector in Indiana; or (3) twice the federal minimum wage, if the applicant's business is the only business in Indiana in the industry sector to which the applicant's business belongs.

The bill also provides that the IEDC may, in evaluating an EDGE credit application to create jobs in Indiana after December 31, 2005, consider whether the average wage paid by the applicant exceeds the average wage paid to: (1) all employees working in the same industry sector to which the applicant's business belongs in the county in which the applicant's business is located, if there is more than one business in that industry sector in the county; (2) all employees working in the same industry sector to which the applicant's business belongs in Indiana, if the applicant's business is the only business in that industry sector in the county in which the applicant's business is located but there is more than one business in that industry sector in Indiana; or (3) all employees working in the county in which the applicant's business is located, if the applicant's business is the only business in Indiana in the industry sector to which the applicant's business belongs.

For EDGE credits granted to retain existing jobs, the bill also: (1) removes the requirement that an applicant provide evidence of a competing job site; (2) reduces the number of employees the applicant must employ from 200 to 75; and (3) changes the minimum amount of local incentives to an amount determined by the Economic Development Corporation.

The bill adds a requirement for EDGE credits providing that if the business is located in a Community Revitalization Enhancement District (CRED) or Certified Technology Park (CTP), the political subdivision that created the CRED or CTP must have adopted an ordinance recommending a credit at least as large as the EDGE credit amount awarded by the IEDC.

The bill requires an applicant for an EDGE credit to agree to maintain operations for at least two years after the last year in which a credit or carryover is claimed (instead of a period twice as long as the term of the tax credit).

Job Retention EDGE Credit Annual Cap: The bill extends the $5,000,000 statewide annual cap on EDGE credits for job retention through the 2006 and 2007 state fiscal years.

Alternative Research Expense Credit Calculation: The bill provides that a Department of Defense aerospace contractor may elect to calculate the Research Expense Tax credit for a taxable year by multiplying the difference between the taxpayer's qualified research expenses for the taxable year and 50% of the average of the taxpayer's qualified research expenses for the preceding three taxable years by a percentage to be determined by the IEDC that may not to exceed 10%.

Effective Date: July 1, 2005; January 1, 2006.

Explanation of State Expenditures: *Indiana Economic Development Corporation (IEDC):* The bill could potentially broaden eligibility and expand the applicant pool for EDGE credits relating to job creation and job retention projects. This may increase the number of applications for EDGE credits and the number of EDGE credits awarded annually. This could potentially create additional administrative demands on the Indiana Economic Development Corporation (IEDC). The IEDC also must make determinations as to matching local credits when businesses located in Community Revitalization Enhancement Districts (CREDs) or Certified Technology Parks (CTPs) are to receive EDGE credits. In addition, the bill also requires the IEDC to make determinations with regard to initial and continuing qualification of an aerospace company for the alternative research expense credit calculation. The IEDC should be able to implement the EDGE Credit changes and its functions relating to the alternative research expense credit calculation under current staffing and resource levels.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the alternative research expense credit calculation. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: *EDGE Credit Determinations/Approvals:* The bill makes the following changes to EDGE Credit determinations and approvals made by the IEDC after June 30, 2005:

(1) The bill changes the average compensation standards for businesses seeking EDGE credits for job creation and job retention projects. The bill changes the current average compensation standard, generally, by linking it to the average compensation paid to employees working in the same industry sector in the county where the

business's project is located, or in the state if no other business in that industry operates in the county. If no other business in that industry sector operates in the state, the average compensation must be at least 200% of the federal minimum wage for *job retention* projects, and must exceed the county average for all employees for *job creation* projects. Under current statute, the standard is linked only to the average compensation for all employees in the county where the business's project is located. The industry sector of the business would be defined according to the North American Industry Classification System (NAICS).
These changes could potentially increase the revenue loss from EDGE credits by increasing the pool of potential qualifiers for the credits. However, the magnitude of this loss is indeterminable.

(2) Under the bill, the IEDC Board is no longer required to consider the existing economic impact, investment, wage, and local financial assistance factors in determining EDGE Credit amounts for *job creation* projects. The bill provides that the IEDC Board may consider these factors, but is not required to do so. The bill also adds a factor that the IEDC Board may consider in determining EDGE Credit amounts for job creation projects. The new determination factor is the extent to which incremental income tax withholdings attributable to the EDGE credit applicant's project are needed for purposes of funds administered by a CRED or a CTP. The extent to which this change will affect EDGE Credit amounts for job creation projects is indeterminable.

(3) The bill eliminates the requirement for the IEDC Board to consider the magnitude of the project cost differential between Indiana and competing sites for EDGE credits for *job retention* projects. The extent to which this change will affect EDGE Credit amounts is indeterminable.

(4) The bill lowers the employment requirement from 200 to 75 Indiana employees for businesses seeking EDGE credits for *job retention* projects. This change could potentially increase the revenue loss from EDGE credits. However, the magnitude of this loss is indeterminable.

(5) The bill eliminates requirements that applicants for EDGE credits for *job retention* projects: (1) provide evidence that at least one other competing site outside Indiana is being considered for the project or for the relocation of jobs; and (2) that a disparity is identified between the project cost in Indiana versus the project cost at the competing site. These changes could potentially increase the number of EDGE credits awarded for projects that lead to job retention.

(6) The bill changes the requirement for EDGE credit recipients to maintain operations at the project location from a period equal to at least twice as long as the term of the EDGE credits, to at least two years after the last taxable year that EDGE credits are claimed or unused credits are carried over.

Job Retention EDGE Credit Annual Cap: Under current statute, the aggregate amount of EDGE credits awarded for job retention projects annually is limited to $5 M in FY 2004 and 2005, with no cap applying in subsequent fiscal years. The bill extends the $5 M annual cap on EDGE credits for job retention projects through FY 2006 and FY 2007.

Alternative Calculation of the Research Expense Tax Credit: The bill provides for an alternative calculation of the Research Expense Tax Credit for a taxpayer that: (1) is primarily engaged in the production of civil and military jet propulsion systems; (2) is certified by the IEDC as an aerospace advanced manufacturer; (3) is a U. S. Department of Defense contractor; and (4) maintains one or more manufacturing facilities in Indiana employing at least 3,000 full-time employees in positions that pay on average more than 400% of the hourly state minimum wage. The IEDC may authorize a taxpayer meeting these requirements to use the alternative calculation method for a taxable year and all subsequent taxable years. The alternative calculation is effective for tax years beginning after December 31, 2005.

The credit under the alternative calculation method is equal to 10% of the difference between: (1) the taxpayer's Indiana qualified research expenses during the taxable year; and (2) 50% of the taxpayer's average Indiana qualified research expenses for the three preceding taxable years. Currently, the Research Expense Tax Credit is equal to 10% of difference between (1) above and the taxpayer's base period Indiana qualified research expenses. It is not known whether more than one company would qualify for the alternative calculation method. The impact of this calculation change is indeterminable, but could potentially be significant.

Background: EDGE Credits: EDGE credits may be awarded to businesses that (1) create new investment and jobs in Indiana or (2) undertake projects to retain existing jobs in Indiana. The businesses receive tax credits equal to the individual income taxes withheld for employees filling the newly created jobs, or the retained jobs.

In 2003, the EDGE Board approved approximately $28.8 M in new credits for job creation to be used over a period of years. The credits were awarded for 16 projects expected to create 6,823 new jobs. The EDGE Board also approved $2.0 M in new credits for job retention, also to be used over a period of years. The credits were awarded for two projects expected to retain 2,450 jobs. From 1994 to 2003, EDGE credits for job creation were approved for 114 projects. During those years, approximately $132.4 M in EDGE credits for job creation were made available, with the total amount of credits certified so far equal to about $81.3 M. Approximately $38.2 M in EDGE credits for job creation were available for approved projects in tax year 2003. EDGE credits for job retention were awarded for the first time in 2003. [Note: Under current statute, EDGE Credits may not exceed $5 M in FY 2004 or FY 2005. There is no limit on the amount of EDGE Credits for job retention beginning in FY 2006.] Revenue from the AGI Tax on corporations, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of the revenue is deposited in the Property Tax Replacement Fund.

Research Expense Credit: The credit is available for individuals, corporations, limited liability companies, limited liability partnerships, trusts, or partnerships who have increased research activities conducted in Indiana. The credit is calculated based on the increased expenses a taxpayer incurred over their base year expenditures. The base year expenditures are measured for taxable years beginning after December 31, 1989, and are equal to the federal base amount as defined in the Internal Revenue Code (2001). A taxpayer is not entitled to a carryback or refund, but may carry forward the tax credit for 15 years. The base year expenses may not be less than 50% of the current tax year's qualified research expenses.

Explanation of Local Expenditures:

Explanation of Local Revenues: *EDGE Credit Approvals/Determinations:* The bill requires that for job creation and job retention projects in CREDs or CTPs to obtain EDGE credits, the local unit that established the CRED or CTP must adopt an ordinance granting a credit to the business that is at least equal to the EDGE credit award.

State Agencies Affected: Department of State Revenue, Indiana Economic Development Corporation.

Local Agencies Affected: Local units with CREDs or certified technology parks.

Information Sources: Indiana Department of Commerce, *2003 EDGE Annual Report*, March 31, 2004; *2003 EDGE for Retention Annual Report*, March 31, 2004. U. S. Census Bureau, *2002 County Business Patterns*.

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